

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OMAR MALCOLM, KARVEN ALCINDOR, ANTHONY APONTE, SHIRLENE BLAIR, DERYCK CHARLES, LATIF CORNELIUS, LANAEC CURRY, JOSE DEJESUS, SHAKIYNA ESPINO, ROBERTO FERNANDEZ, VLAJEMY FRANCOIS, CRYSTAL GARNETT, CHANTEL GOUVEIA, APRIL HERNEY-KOSAKOWSKI, TAMELLE HILLIARD, YOLANDA HOLMES, MONIQUE JOHNSON, KEYSHA LEWIS, CAROLYN MARAJ, HUZIRAN MOZEB, ZIHUI PU, DAVID RUDDOCK, MYRLINE ULYSSES, and BRICE WILLIAMS, individually and on behalf of all others similarly situated,

Plaintiffs,

-against-

THE CITY OF NEW YORK,

Defendant.

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DECLARATION OF PLAINTIFF OMAR MALCOLM IN OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS

I, Omar Malcolm, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

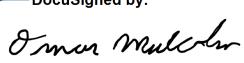
1. I am one of the lead plaintiffs in the above captioned matter.
2. I submit this declaration in opposition to the Defendant's motion to dismiss my retaliation claims against the City of New York.
3. I hereby supplement the facts alleged in the First Amended Complaint dated February 22, 2021.
4. On April 21, 2020, I sent an email to Jason Dunkel, an attorney with the New York City Department of Corrections' ("DOC") Department of Labor Relations, and Maria Guccione, the Executive Director of Labor Relations at the DOC, advising them of a

“Payroll Complaint” which I “tried to rectify” on my own “to no avail.” The April 21, 2020 email makes reference to overtime worked but not paid in October 2019, January 2020 and February 2020.

5. On June 2, 2020, I sent an email to Nadine M. Pinnock, Deputy Commissioner of Human Resources for the DOC, Jason Dunkel, Maria Guccione, as well as DOC employees responsible for payroll. Part of the email reads: “After months and months of trying to retrieve monies owed to me by the department, I[] finally was able to track down my sign in/out sheets. These attached sheets will further detail how Assistant Deputy Warden Malcom, Omar [has] not received unpaid overtime wages as far back as October [2019]. This is a direct violation of the Fair Labor Standards Act.”
6. At the time I wrote the June 2, 2020 email I had an honest belief that the DOC’s failure to pay overtime was a violation of the Fair Labor Standards Act.
7. On August 13, 2020, less than two months after I complained of the FLSA violation, Acting Assistant Chief Sherrieann Rembert emailed me and my superiors ordering “Restrict ADW Malcolm for the remaining [sic] of the month[.]” referring to restricting me from earning overtime.
8. I request that this Declaration be incorporated into the First Amended Complaint which was filed on February 22, 2021.

The foregoing is true and correct.

Dated: 5/3/2021

DocuSigned by:

018642E1BE224A2
Omar Malcolm